

### Remarks

In response to the Office Action dated March 26, 2007, Applicant respectfully requests reconsideration based on the above claim amendment and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance.

### 102 Rejections

Claims 1, 3, 4, 6, 8, 10-12, 18-20 and 24-28 stand rejected under 35 USC 102(b) as being anticipated by Paul (US Pat. 6,381,745). The Applicant respectfully traverses the rejections.

#### Claims 1-10

Amended claim 1 recites in pertinent part:

“[a] system for delivering to a subscriber a first signal that is free from a right-of-way franchise fee...wherein the multiplexer combines the second signal and the first signal into a combined signal for routing to the subscriber, and wherein the combined signal is comprised of at least two of a video signal, a voice signal and a data signal; and an optical network unit on the second side of the right-of-way in communication with the multiplexer and in communication with the subscriber wherein the optical network unit separates the combined signal into the first signal and the second signal.”

The Applicant respectfully notes that Paul fails to describe a combined signal comprised of at least two of a video signal, a voice signal and a data signal. Further, Paul fails to describe an optical network unit on the second side of the right-of-way in communication with the multiplexer and in communication with the subscriber wherein the optical network unit separates the combined signal into the first signal and the second signal.

Paul is concerned with combining and delivering only video signals from satellite, CATV and VCR sources. Paul describes a local VCR input **172** being combined with a satellite signal source **160** and a CATV signal source **163** at diplexer **112**/combiner **113**/diplexer **115**. The combined satellite/CATV signal is then delivered to the subscriber satellite adaptor **150** for separation and rendering on Television **171**. As such, Paul fails to describe that the combined signal includes two of a video signal, a voice

signal and a data signal (i.e. a signal other than a video signal). Furthermore, Paul describes the use of a copper wire network on the second side of the right-of-way and does not describe the use of an optical network.

Because Paul fails to describe that the combined signal is comprised of at least two of a video signal, a voice signal and a data signal, Paul fails to describe each and every claim element. Thus, amended independent claim 1 is allowable over Paul for at least this reason. Claims 2-10 depend from an allowable independent claim 1 and are allowable for at least the same reasons.

#### Claims 11-28

Claim 11 recites a method for delivering to a subscriber a first signal that is subject to right-of-way franchise fees, wherein the method comprises the steps of:

- (a) transmitting a second signal from a first side of the right-of-way, through the right-of-way, and to a second side of the right-of-way, wherein the first side is opposite the second side wherein the second signal is comprised of at least one of a video signal, a data signal and a voice signal;

- (b) receiving via a wireless communication the first signal on the second side of the right-of-way such that the first signal does not pass through the right-of-way, wherein the first signal is comprised of at least one of the video signal, the data signal and the voice signal but does not contain the same type of signal as the second signal;

- (c) combining the first signal and the second signal into a combined signal on the second side of the right-of-way;

- (d) routing the combined signal in the direction of the subscriber, wherein the subscriber is on the second side of the right-of-way;

- (e) separating the combined signal into the first signal and the second signal; and

- (t) routing the first signal and the second signal to the subscriber.

The Applicant respectfully points out that Paul fails to describe a second signal that is comprised of at least one of a video signal, a data signal and a voice signal and that the first signal is comprised of at least one of the video signal, the data signal and the voice signal but does not contain the same type of signal as the second signal. Further, Paul fails to describe separating the combined signal into the first signal and the second signal to the subscriber.

As discussed above in regards to amended independent claim 1, Paul is concerned with combining and delivering only video signals from satellite, CATV and VCR sources. The combined satellite/CATV (i.e. video) signal is then delivered to the

subscriber satellite adaptor for separation and rendering on television. Because Paul fails to describe that the second signal is comprised of at least one of a video signal, a data signal and a voice signal and that the first signal is comprised of at least one of the video signal, the data signal and the voice signal but does not contain the same type of signal as the second signal and separating the combined signal into the first signal and the second signal, Paul fails to describe each and every claim element.

Since the Office Action fails to demonstrate each and every claim element, amended independent claim 11 is allowable over Paul. Amended independent claims 20 and 26 recite similar subject matter are allowable over Paul for at least the same reasons. Claims 12, 18-19, 24-25 and 27-28 depend variously from an allowable amended independent claim 11, 20 or 26 and are allowable for at least the same reasons.

### 103 Rejections

Claims 7, 9, 13-16, 22 and 23 stand rejected under 35 USC 103(a) as being unpatentable over Paul in view of Applicants alleged Admitted Prior. Claims 2, 5, 17 and 21 stand rejected under 35 USC 103(a) as being unpatentable over Paul in view of Examiner's Official Notice.

As discussed above in regards to the §102 rejections, amended independent claims 1, 11, 20 and 26 are allowable over Paul. As none of the admitted prior art or the proffered Official Notice cure the deficiencies of Paul, claims 1, 11, 20 and 26 are allowable over Paul and either the Official Notice or the Admitted prior art. Since claims 2, 5, 7, 9, 13-17, and 21-23 depend from an allowable independent claim 1, 11 or 20, they are allowable for at least the same reasons.

### Conclusion

Applicants assert that the application including claims 1, 2, 6-20, 23-25, and 27-28 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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